

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-7 are rejected under 35 U.S.C. 101 because the claims are directed to non-statutory subject matter. The invention as described in claim 1 is directed solely to "tables", which are a type of data structure. Data structures not claimed as embodied in computer-readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer.

Claims 2-6 are rejected for inheriting the deficiencies of claim 1, above.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, 7-12, 15-17, 20 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by L'allier et al. (US Patent No. 6,039,575).

Regarding claim 1, L'allier discloses a wide area networked educational system for presenting an educational curriculum to a student, comprising: a table (database) of learning objectives associated with the educational curriculum (column 2, lines 5-8), wherein the learning objective is an educational goal of the educational curriculum; a table of target indicators

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(standards) associated with each of the learning objectives, wherein the target indicator is an assessable portion of the learning objective; a table of content items (instructional units) associated with each of the target indicators, wherein the content item is a presentation of educational material; and a table of assessment items associated with each of the content items, wherein the assessment item comprises a question which assesses the student's comprehension of the associated content item (column 2, lines 9-26).

Regarding claim 4, L'allier further discloses the system is provided to the student over the Internet (column 6, lines 8-17).

Regarding claims 7 and 8, L'allier discloses a computerized educational system, comprising: a database of content items (instructional units) representing data to be learned by a student; a database of assessment items (questions), wherein each assessment item is linked to one or more content items, and wherein said assessment items comprise questions that test the students knowledge of said data (column 2, lines 5-27); a server configured to deliver a first page comprising a first content item to a student; a server configured to choose an assessment item from said database of assessment items, and present it to said student to test the student's knowledge of said first content item (column 5, lines 18-31) (as per claim 7), and the server is configured to receive an answer to a question posed by said assessment item, and to present additional content items based on the answer (as per claim 8) (column 2, lines 15-23). L'allier does not explicitly disclose a first server delivers the content item and a second server delivers the assessment item (as per claim 7) and a second server receive an answer and presents additional content (as per claim 8); instead L'allier discloses a system (10) for delivering both of these items. However, as disclosed by the applicant in claim 9, the first and second server can

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indeed be portions of the same server, as disclosed by L'allier's system (10), and L'allier thus discloses this claimed first and second server configuration.

Regarding claim 9, L'allier further discloses first server and said second server are the same server (10 - see Fig. 1).

Regarding claim 12, L'allier further discloses the system is provided to the student over the Internet (column 6, lines 8-17).

Regarding claim 15, L'allier discloses a method of educating a student about a material, the method comprising the steps of: developing a course that represents the material (course overview) and presenting the course to the student through a computer system (step 112 – column 3, lines 52-62); presenting an examination to the student based on the material in the course to evaluate the student's comprehension of the material (pre-assessment) and evaluating a learning preference of the student (learning profile - 126) (column 4, lines 1-23); developing a second course that represents a portion of the material of the course not comprehended by the student (122a-d); and presenting the second course to the student in the learning preference of the student (column 4, lines 28-45).

Regarding claim 16, L'allier discloses a method of providing an educational curriculum to a student, comprising: providing a page of information to be learned to a student (course overview) wherein said page comprises content items (column 3, lines 52-62); providing a series of assessment questions to said student, wherein said assessment questions have been associated with said content items (column 4, lines 1-23); receiving answers to said assessment questions; analyzing said answers to determine which content items have been learned by the student; and re-displaying content items that were not learned to said student (column 4, lines 28-45).

Regarding claims 2, 3, 10, 11, 17, 20 and 21, L'allier further discloses the content items (as per claims 2, 10, 17, and 20) and assessment items (as per claims 3, 11 and 21) comprise text files (column 3, lines 32-43).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over L'allier et al. (US Patent No. 6,039,575).

Regarding claim 22, L'allier does not explicitly disclose a plurality of the content items is stored on multiple Internet servers. Instead, L'allier simply discloses the learning objects can be accessed remotely over the internet. However at the time of the invention it would have been an obvious matter of design choice to a person of ordinary skill in the art to specify the use of multiple internet servers. Applicant has not disclosed that utilizing multiple servers provides an

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advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected L'allier's system, and applicant's invention, to perform equally well with either the system taught by L'allier or the claimed multiple servers, because both implementations would perform the same function of presenting content items to the user equally well.

8. Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over L'allier et al. (US Patent No. 6,039,575) in view of Pellegrino et al. (US Patent No. 6,149,441).

Regarding claims 5 and 13, L'allier does not explicitly disclose links to external content items stored outside of the educational system, however Pellegrino discloses a computer-based educational system with a media catalog of learning items that includes "http" links to material on the internet (column 11, lines 45-52). It would have been obvious to one skilled in the art at the time of the invention to modify the teachings of L'allier by adding the links to external material on the internet taught by Pellegrino, with the motivation of avoiding having to store all educational materials on the system's server.

9. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over L'allier et al. (US Patent No. 6,039,575) in view of (Lemelson et al. (US Patent No. 5,823,788).

Regarding claims 5 and 13, L'allier does not explicitly disclose the assessment items consist of multiple choice questions, however Lemelson discloses an interactive educational system that involves posing and collecting responses to multiple choice questions (column 7,

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lines 19-27). It would have been obvious to one skilled in the art at the time of the invention to modify the teachings of L'allier by adding the multiple choice questions taught by Turner, with the motivation of using questions that allow easy scoring and generating of statistical information.

10. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over L'allier et al. (US Patent No. 6,039,575) in view of Lee et al. (US Patent No. 5,441,415).

Regarding claims 18 and 19, L'allier does not explicitly disclose re-displaying said contents comprises re-displaying said content items in a different format (as per claim 18), said different format consisting of video and audio files (as per claim 19). However, Lee discloses redisplaying unlearned content in a different format (column 2, lines 61-67) – see Fig. 5) including video and audio files (column 5, lines 45-56). It would have been obvious to one skilled in the art at the time of the invention to modify the teachings of L'allier by adding the feature of re-displaying unlearned content items in a different format, as taught by Lee, with the motivation of presenting the material in a form that the user is able to more easily understand.

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Egloff whose telephone number is (571) 270-3548. The examiner can normally be reached on M-F 7:30am - 5:00 pm EDT.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached at (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kathleen Mosser/  
Primary Examiner, Art Unit 3714

Peter Egloff  
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